



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

January 12, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in dark ink, appearing to read "Zev" followed by a stylized flourish.

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

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Fifth District

STATUS OF THE 2011 PUBLIC SAFETY REALIGNMENT (AB 109 OF 2011) AND ITS IMPACT ON LOS ANGELES COUNTY (AGENDA ITEM A-6, MEETING OF JANUARY 17, 2012)

Item No. A-6 on the January 17, 2012 Agenda is to provide your Board the status of the 2011 Public Safety Realignment (AB 109 of 2011) and its impact on Los Angeles County. The purpose of this memorandum is to:

1. Provide a preliminary overview of Governor Brown's proposed November 2012 Ballot Initiative, The Schools and Local Public Safety Protection Act 2012, which would enact constitutional protections for the 2011 Public Safety Realignment and temporary tax increases to fund education; and
2. Request direction from your Board to weigh in with the California Association of Counties (CSAC) as they consider Governor Brown's request to take a support position on his ballot initiative, "The Schools and Local Public Safety Protection Act 2012."

Background

As previously reported, the FY 2011-12 State Budget Act enacted the 2011 Public Safety Realignment shifting \$5.9 billion in responsibilities for a number of public safety and health and human services programs from the State to counties and redirected 1.0625 percent of State Sales Tax revenue and a specified portion of Vehicle License Fee (VLF) revenue directly to counties to operate the realigned programs. The County began implementation on October 1, 2011. However, the State Budget Act did not

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include the Governor's proposal to extend \$8.6 billion in existing taxes to fund realignment or any of the constitutional protections sought by counties to ensure funding stability and to avoid future increased and unfunded costs to administer the realigned programs. In signing the FY 2011-12 State Budget Act, Governor Brown expressed his commitment to providing constitutional funding guarantees and protections for counties.

Governor's Proposed Initiative

On December 5, 2011, the Governor released his proposed November 2012 Ballot Initiative, The Schools and Local Public Safety Act of 2012, which would amend the State Constitution to: I) permanently dedicate revenues to local governments to pay for the 2011 Public Safety Realignment and protect counties from future increased and unfunded costs to administer the realigned programs; and II) institute temporary increases in the State Sales Tax and the Personal Income Tax for higher income earners to fund K-14 education.

The Governor's measure has yet to receive Title and Summary from the Attorney General's Office and has not officially qualified to begin the signature gathering process. Title and Summary and qualification are expected by January 28, 2012. Specifically, the Governor's Initiative would:

- I. **Provide Constitutional Protections for the 2011 Public Safety Realignment.** The Governor's Initiative proposes to:
 - **Guarantee ongoing revenues to local governments for the realigned programs** – Requires the State to continuously appropriate the specified Sales Tax and VLF revenues to counties to exclusively fund the realigned programs. If Sales Tax or VLF revenue are reduced or eliminated, requires the State to provide counties alternative funding.
 - **Protect local governments from additional requirements and increased costs imposed by the State** – Restricts the State from imposing additional statutory or regulatory requirements on counties related to the realigned programs unless there is no net additional cost associated with the change or the State provides additional funding.
 - **Limit local governments from seeking additional reimbursements** – Restricts counties from seeking additional reimbursement from the State to operate the realigned programs.
 - **Require State to share unanticipated costs** – Requires the State to provide at least 50.0 percent of the costs related to changes to Federal statutes, regulations, settlements or judicial orders resulting from Federal litigation that the State is party to.

- II. Institute Temporary Tax Increases to Fund Education.** The Governor's Initiative would temporarily increase the State Sales Tax and the Personal Income Tax for higher income earners to provide an estimated \$6.9 billion in revenue, \$4.9 billion of which would be dedicated to fund K-14 education. Specifically, the Governor's measure would:
- **Increase the State Sales Tax rate for four years** – Temporarily increases the State Sales Tax rate by 0.5 percent beginning January 1, 2013 through the end of 2016. The Statewide average Sales Tax rate would increase to 8.6 percent.
 - **Increase Personal Income Tax rates on higher earners for five years** - Affects roughly 1.0 percent of California Personal Income Tax filers and would begin in the 2012 tax year.
 - Increases the tax rate to 10.3 percent for individuals earning between \$250,000 and \$300,000; heads of household earning between \$340,000 and \$408,000; and joint filers earning between \$500,000 and \$600,000.
 - Increases the tax rate to 10.8 percent for individuals earning between \$300,000 and \$500,000; heads of household earning between \$408,000 and \$680,000; and joint filers earning between \$600,000 and \$1.0 million.
 - Increases the tax rate to 11.3 percent for individuals earning over \$500,000; heads of household earning over \$680,000; and for joint filers earning over \$1.0 million.

Legislative Analyst's Office (LAO) Report

On January 6, 2012, the LAO released his analysis of the Governor's proposed Initiative and indicates that the measure would change the State's authority over the 2011 Public Safety Realignment and reduce the financial insecurity and risk for local governments to operate the realigned programs. According to the LAO, the proposed measure would constrain the State from changing the 2011 Public Safety Realignment or imposing new requirements on the realigned programs without providing commensurate funding. The State would also be required to share in some of the costs associated with any Federal laws or court orders related to the realigned programs.

With regard to the temporary tax increases, the LAO's analysis notes that potential volatility in the Personal Income Tax revenues from higher income earners makes it difficult to estimate the revenue gains from the temporary tax increase. In addition, the LAO estimates the annual increase in State revenues generated from the temporary taxes would be \$4.8 billion in FY 2012-13, \$2.1 billion lower than the Governor's estimates.

Previous Board Action

On March 18, 2011, your Board approved a motion to instruct the Chief Executive Office (CEO) to continue working with the Administration and State Legislature to develop a realignment framework and to communicate support of **ACAx1 2 (Blumenfield)** and **SCAx1 1 (Steinberg)**, identical legislative proposals that would have established a State constitutional amendment to, among other things: 1) extend State Sales Tax and VLF tax rates in effect in 2010 for an additional five years; 2) require that the revenues generated from the tax extension be used exclusively to fund local public safety services realigned to the counties; 3) ensure the State continuously appropriated funding to counties in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the tax extension, after the taxes expired; 4) protect counties from providing a higher service level if the overall effect increased the costs of the realigned programs; and 5) require the State to provide at least 50.0 percent of the non-Federal share of cost increases incurred by counties as a result of changes in Federal law.

County-supported ACAx1 2 and SCAx1 1 failed to pass the Legislature and the 2011 Public Safety Realignment was enacted without the extension of the State Sales Tax and VLF rates or constitutional protections sought by the Administration and the counties. It is important to note that the constitutional protections and funding guarantees language included in the Governor's Initiative is substantially similar to the language included in ACAx1 2 and SCAx1 1.

California State Association of Counties Effort

In September 2011, the CSAC Board of Directors voted to develop and explore pursuit of a ballot initiative to pursue constitutional protections for the 2011 Public Safety Realignment. The CSAC measure did not propose tax increases. The Attorney General issued Title and Summary for CSAC's measure on December 29, 2011 and authorized CSAC to begin the signature gathering process. However, at CSAC's Board of Directors' meeting on January 5, 2012, while reaffirming that constitutional guarantees of revenues and county protections for the 2011 Public Safety Realignment remained the top priority for the Association, the CSAC Board of Directors voted to suspend efforts to qualify the CSAC Initiative. The CSAC Board recognized that delaying pursuit of an independent effort would increase signature-gathering costs and it would likely not be feasible to subsequently decide to move forward to qualify the CSAC Ballot Initiative.

Each Supervisor
January 12, 2012
Page 5

The CSAC Board of Directors also considered supporting the Governor's proposed November 2012 Ballot Initiative but decided to postpone the discussion to their February 23, 2012 meeting. It is expected the CSAC Board of Directors will call for a vote on the Governor's measure at that meeting.

As of January 12, 2012, there are no other proposed ballot measures that would provide constitutional protections for the 2011 Public Safety Realignment that have been submitted to the Attorney General.

Conclusion

Overall, while the funding guarantees and constitutional protections included in the Governor's proposed Ballot Initiative are substantially similar to the language included in ACax1 2 and SCax1 2, which the County supported, the Governor's measure proposes an estimated \$6.9 billion in temporary new taxes. **Therefore, weighing in with the California Association of Counties as they consider Governor Brown's request to support his Ballot Initiative, is a matter for Board policy determination as we do not have policy on the tax component of the Governor's proposal.**

We will continue to keep you advised as more information becomes available.

WTF:RA
MR:KA:er

c: Executive Office, Board of Supervisors
County Counsel